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RUEHWL/AMEMBASSY WELLINGTON PRIORITY 0107
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RUEKJCS/SECDEF WASHINGTON DC PRIORITY
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TAGS: MOPS NATO PARM PREL
SUBJECT: ALLIES HEAR U.S. CONCERNs ON CLUSTER MUNITIONS BAN

REF: SECSTATE 06074

Classified By: Deputy Chief of Mission Richard G. Olson, reasons 1.4 (b and d)

¶1. (C) SUMMARY: State Department and OSD representatives briefed NATO Deputy Permanent Representatives January 24 on U.S. concerns over the proposed international ban on cluster munitions and the effect it could have on NATO interoperability. Richard Kidd of the Political-Military Affairs Bureau and Dr. David Hodson of the Office of Secretary of Defense emphasized four areas during their

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discussion: 1) Ongoing U.S. efforts to address the humanitarian impact of exploded remnants of war (ERW), including cluster munitions; 2) An ongoing Department of Defense policy review on the use of CMs and continuing technological efforts to improve their accuracy and reliability; 3) The current text for the upcoming Wellington Conference and how it presents impediments to NATO interoperability; 4) The CCW process that could achieve success on addressing the humanitarian concerns without sacrificing interoperability. Overall, Allies were very appreciative of the briefing and appeared receptive to the arguments put forward, particularly the potential effect on interoperability and the need for further technological advances. Allies deeply involved in the Oslo Process (Norway, Italy, Belgium, and Luxembourg), while acknowledging the interoperability problem, couched their remarks in terms of U.S. overreaction to the issue. END SUMMARY

KIDD AND HODSON FRAME THE ISSUE

¶2. (C) On January 24, Mr. Richard Kidd, Office Director, Political-Military Affairs Bureau, Office of Weapons Removal and Abatement and Dr. David Hodson, Senior Policy Adviser, Office of the Secretary of Defense, briefed NATO Deputy Permanent Representatives and International Staff representatives regarding U.S. concerns over the international Oslo process to ban cluster munitions (CMs) and its potential for criminalizing military interoperability between NATO Allies. Following U.S. Deputy Permanent

Representative, Richard Olson's introductory remarks, Director Richard Kidd began the discussion by outlining the Oslo process to ban CMs and the significant challenges posed by the incorporation of language that would criminalize military interoperability between signatory states and non-signatory states. He also updated Deputy PermReps on the ongoing discussions in the Convention on Conventional Weapons (CCW), and U.S.-led efforts to address the humanitarian impact of all ERW, stressing the integrated approach that the U.S. is taking to clear all conventional weapons, not just anti-personnel landmines (APLs) or CMs. Kidd also provided a detailed description of U.S. efforts to develop munitions for the U.S inventory with enhanced guidance and reliability features, to reduce older stockpiles, and internally review the use of CMs. Moving to the Oslo process, and the text that will be discussed at the upcoming conference in Wellington, New Zealand on February 18-22, Kidd said that while the U.S. would respect sovereign nations, decisions regarding cluster munitions use and their stockpiling, he called on all Allies to protect NATO's ability to work together and not make their national decisions an issue for third parties. Focusing on paragraphs 1 and 9 taken directly from the most recent Wellington version of the Oslo process text, copies of which were distributed and left with Allies, he noted that the U.S. will not be a participant in the Oslo process and that the use of CMs is an integral part of how the U.S. has configured its forces and wages war from planning, to training, to operational aspects. By signing on to the text as currently written Allies could criminalize their cooperation within NATO and particularly with the United States. Therefore, he called on Allies to take this into consideration and to work with the U.S. to reconcile these issues.

¶13. (C) Dr. David Hodson said DOD's ongoing internal review on CM use is focused on reviewing rules of engagement, studying munitions reliability, reviewing DOD targeting process, reducing of older excess stocks, and developing newer guidelines on their use in keeping with international standards. He reiterated Kidd's comment on how integral CMs are to the way the U.S. and their coalition partners wage war, including providing a brief presentation on the overall military utility of CMs. Dr. Hodson also updated Allies on the process in the CCW where there is an effort underway to negotiate a proposal to address the humanitarian impact of CMs that is designed to balance humanitarian and military considerations. He described the first round of discussions that took place in January as constructive and positive as the process moves to another round scheduled for April. Hodson noted that Russia chaired a working group session, and that there was hope that with the inclusion of major CCW states parties and CM producers and users (Brazil, China, India, Pakistan, Russia, and South Korea) the process offered a realistic chance on addressing CMs and humanitarian concerns that would take into consideration military concerns. Kidd concluded the briefing by pointing out that Allies who signed up to Oslo also had to consider the alternative to CMs (a point also driven home by DCM Olson) which included either the more expensive precision guidance munitions or more firepower from unitary weapons that would result in higher collateral damage and civilian casualties.

ALLIED REACTION

¶14. (C) Allies appreciated the briefing and appeared attentive and receptive to U.S. concerns and arguments, even though only a handful of Allies spoke following the presentation. Norway led off Allied interventions saying and giving assurances their government is not disregarding the interoperability issue that Norway is looking to find a solution to the interoperability problem, but that the time was short. The Norwegian Representative further noted that experts in all levels of his government including the MOD were in touch as the Oslo process moves along. Kidd, in response, took the Norwegian to task on the interoperability issue saying that during his meetings in Oslo in October

2007, he had presented a U.S. position paper on how the Oslo text could harm NATO interoperability, but Norway had yet either to engage in any dialogue or produce their own thoughts on the interoperability issue despite past assurances that they would. The Norwegian promised to follow up with Oslo.

¶ 15. (C) Canada followed saying that the U.S. had given Allies a lot to think about and consider, acknowledging the importance of Allied interoperability, particularly given Ottawa's contributions in Afghanistan. While noting the importance of addressing the political impact, he requested more information on the timelines with respect to the ongoing DOD internal review and the technological efforts. Italy noted that their military was fully aware of the interoperability issue, but that Rome was under pressure from public opinion, much in the same way as during the Ottawa process on land mines. He echoed Canada's questions with an emphasis that perhaps technology could help to resolve the issue. He also requested more information on the U.S. proposed rapid reaction task force responsible for ERW removal and if it could be adopted or integrated as a capability into the Alliance. Germany noted its proposal at the CCW for a phased approach on introducing a ban on CMs with a failure rate of less than one percent. They also queried the U.S. about how the recent law passed by Congress that prohibits the USG from exporting CMs with a failure rate of less than one percent might affect interoperability.

¶ 16. (C) In response, both Kidd and Hodson reiterated the U.S. commitment to improve their weapons systems, but not to have a total ban. Kidd responded to the German question by saying that the USG would of course abide by the legislation, noting that the legislation seeks a technological solution to the problems created by cluster munitions and did not involve an outright ban on use. Hodson said that the DOD review was ongoing, but hoped to have an agreed DOD position by March, which would then go for inter-agency review. As for timelines on technological advancement, Hodson noted that this held a lot of promise toward helping to address the humanitarian impact, but cautioned that these developments, ranging from fusing, guidance, and self-destruction would take money and time, framing it in the 10 to 15 year range. In response to a Spanish question on the difference between the U.S. use of landmines and CMs, Kidd and Hodson recapped for Allies that CMs, are more fully integrated into all components of U.S. combat forces than was ever the case for landmines. They noted the difficulty following the Ottawa treaty when the U.S. was forced to reach separate memorandums of understanding with each of the Allies, something that would be impossible for CMs. Finally, they noted that in the mid-1990's there was no technological evolution taking place in regards to APLs, while currently new and improved CMs are being developed that offer both enhanced military utility and greater protections for civilians.

¶ 17. (C) Belgium and Luxembourg while welcoming U.S. efforts on decreasing the humanitarian impact of CMs, noted that both of their nations had adopted legislation banning CMs, implying in their remarks that the U.S. is overreacting and that outright bans have not harmed their respective NATO commitments, as both have included in their respective laws exemption for NATO interoperability. Belgium also noted that they did propose some changes to the Wellington articles in order to account for interoperability, but did not follow up on how they intend to pursue amending the text at Wellington. Kidd noted again that a CMs ban was a sovereign decision and neither NATO nor anyone else can force nations to use certain munitions that would violate their national legislation, however, he reminded Allies again that they should not export their national decisions to third parties and held up the Luxembourg legislation as an example that proved the U.S. point. Kidd and Hodson concluded the meeting by emphasizing again the positive momentum in the CCW and that with the active participation of the world's largest users, stockpilers, and producers of CMs, such as Russia and China, (an element missing from Oslo) there was hope that something positive could be done on addressing the humanitarian impact

without sacrificing military utility and interoperability.

¶8. (U) Mr. Kidd and Dr. Hodson have cleared this message.

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